

AMENDED IN SENATE JULY 14, 2003

AMENDED IN SENATE JUNE 23, 2003

AMENDED IN ASSEMBLY APRIL 30, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 512**

**Introduced by Assembly Member Bates  
(Coauthors: Assembly Members Maze and Pacheco)**

February 18, 2003

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An act to amend Sections 1363, 1368, and 1373 of, to add Sections 1350.5 and 1350.7 to, to add Article 4 (commencing with Section 1357.100) ~~and Article 2 (commencing with Section 1378.010)~~ to, and to add chapter and article headings to Title 6 (commencing with Section 1350) of Part 4 of Division 2 of, the Civil Code, relating to common interest developments.

### LEGISLATIVE COUNSEL'S DIGEST

AB 512, as amended, Bates. Common interest developments.

The Davis-Stirling Common Interest Development Act defines and regulates common interest developments. The act requires that a common interest development have a recorded declaration, as specified, and permits the declaration to be amended according to the act's provisions or those of the governing documents, as defined. The act requires that a common interest development be managed by an association, and that a member of the association may attend meetings of the board of directors of the association, except when they meet in executive session to consider specified matters. The act excepts certain common interest developments expressly zoned as industrial or

commercial developments, as specified, from certain of its requirements.

This bill would revise the Davis-Stirling Common Interest Development Act to add chapter and article headings to its provisions. The bill would specify that these headings do not change the scope, meaning, or intent of the bill.

This bill would also add provisions concerning procedural fairness in decisionmaking and rulemaking by associations. The bill would add requirements regarding operating rules relating to the use of the common area, the use of a separate interest, member discipline, and assessment collection, as specified. Among other things, the bill would establish criteria for valid operating rules, require that members have notice ~~and an opportunity to comment~~, provide an optional rulemaking procedure and an optional emergency rulemaking procedure, and establish a procedure for reversing a rule. The bill would revise the provisions regarding common interest ~~development~~ *developments* that are zoned as industrial or commercial developments, as described above, and would except certain of its provisions from application to these developments. ~~The bill, with specified exceptions, would also require that a decision on a proposed alteration of a separate interest, exclusive use common area, or a common area, by an owner of a separate interest, be made in good faith and in a fair and reasonable manner, and would establish an optional decisionmaking procedure for these alterations that would satisfy this requirement.~~ The bill would further provide general document delivery rules, to be applicable when specified.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. A chapter heading is added to Title 6  
2 (commencing with Section 1350) of Part 4 of Division 2 of the  
3 Civil Code, immediately preceding Section 1350, to read:

4  
5 CHAPTER 1. GENERAL PROVISIONS  
6

7 SEC. 2. An article heading is added to Title 6 (commencing  
8 with Section 1350) of Part 4 of Division 2 of the Civil Code,  
9 immediately preceding Section 1350, to read:

10



Article 1. Preliminary Provisions

SEC. 3. Section 1350.5 is added to the Civil Code, to read:

1350.5. Division, part, title, chapter, and section headings do not in any manner affect the scope, meaning, or intent of this title.

SEC. 4. Section 1350.7 is added to the Civil Code, to read:

1350.7. (a) This section applies to delivery of a document to the extent the section is made applicable by another provision of this title.

(b) A document shall be delivered by one or more of the following methods:

(1) Personal delivery.

(2) First-class mail, postage prepaid, addressed to a member at the address last shown on the books of the association or otherwise provided by the member. Delivery is deemed to be complete on the fifth day after deposit into the United States Mail.

(3) E-mail, facsimile, or other electronic means, if the recipient has agreed to that method of delivery. If a document is delivered by electronic means, delivery is complete at the time of transmission.

(4) By publication in a periodical that is circulated primarily to members of the association.

(5) If the association broadcasts television programming for the purpose of distributing information on association business to its members, by inclusion in the programming.

(6) A method of delivery provided in a recorded provision of the governing documents.

(7) Any other method of delivery, provided that the recipient has agreed to that method of delivery.

(c) A document may be included in or delivered with a billing statement, newsletter, or other document that is delivered by one of the methods provided in subdivision (b).

(d) For the purposes of this section, an unrecorded provision of the governing documents providing for a particular method of delivery does not constitute agreement by a member of the association to that method of delivery.

SEC. 5. An article heading is added to Title 6 (commencing with Section 1350) of Part 4 of Division 2 of the Civil Code, immediately preceding Section 1351, to read:

## Article 2. Definitions

SEC. 6. A chapter heading is added to Title 6 (commencing with Section 1350) of Part 4 of Division 2 of the Civil Code, immediately preceding Section 1352, to read:

## CHAPTER 2. GOVERNING DOCUMENTS

SEC. 7. An article heading is added to Title 6 (commencing with Section 1350) of Part 4 of Division 2 of the Civil Code, immediately preceding Section 1352, to read:

## Article 1. Creation

SEC. 8. An article heading is added to Title 6 (commencing with Section 1350) of Part 4 of Division 2 of the Civil Code, immediately preceding Section 1354, to read:

## Article 2. Enforcement

SEC. 9. An article heading is added to Title 6 (commencing with Section 1350) of Part 4 of Division 2 of the Civil Code, immediately preceding Section 1355, to read:

## Article 3. Amendment

SEC. 10. Article 4 (commencing with Section 1357.100) is added to Title 6 of Part 4 of Division 2 of the Civil Code, immediately following Section 1357, to read:

## Article 4. Operating Rules

1357.100. As used in this article, “rule change” means the adoption, amendment, or repeal of an operating rule by the board of directors of the association.

~~1357.110. This article only applies to an operating rule relating to one or more of the following subjects:~~

~~(a) Use of the common area or of an exclusive use common area.~~

~~(b) Use of a separate interest, including any aesthetic or architectural standards that govern alteration of a separate interest.~~

~~(c) Member discipline, including any schedule of monetary penalties for violation of the governing documents and any procedure for the imposition of penalties.~~

~~(d) Assessment collection procedures.~~

~~1357.120. This article does not apply to the following actions by the board of directors of an association:~~

~~(a) A decision in a specific case that is not intended to apply generally.~~

~~(b) A decision setting the amount of a regular or special assessment.~~

~~(c) A rule change that is required by law, if the board of directors has no discretion as to the substantive effect of the rule change.~~

~~(d) Issuance of a document that merely repeats existing law or the governing documents.~~

~~(e) A decision regarding maintenance of the common area.~~

~~1357.130.~~

~~1357.110. An operating rule is valid and enforceable only if all of the following requirements are satisfied:~~

~~(a) The rule is in writing.~~

~~(b) The rule is within the authority of the board of directors of the association conferred by law or by the declaration, articles of incorporation or association, or bylaws of the association.~~

~~(c) The rule is not inconsistent with governing law and the declaration, articles of incorporation or association, and bylaws of the association.~~

~~(d) The rule is adopted, amended, or repealed in good faith and in substantial compliance with the requirements of this article.~~

~~(e) The rule is reasonable.~~

~~1357.140. The board of directors of an association shall provide members with notice and an opportunity to comment before making a rule change.~~

~~1357.150. (a) Use of the procedure described in this section satisfies the requirements of Section 1357.140. An association is not required to use this procedure.~~

~~(b) The board of directors of the association shall deliver notice of a proposed rule change to every association member. The notice shall include all of the following information:~~

1 ~~(1) The text of the proposed rule change.~~

2 ~~(2) A description of the purpose and effect of the proposed rule~~  
3 ~~change.~~

4 ~~(3) The deadline for submission of a comment on the proposed~~  
5 ~~rule change.~~

6 ~~(c) For a period of not less than 30 days following delivery of~~  
7 ~~a notice of a proposed rule change, the board of directors shall~~  
8 ~~accept written comments from association members on the~~  
9 ~~proposed rule change.~~

10 ~~(d) The board of directors shall consider any comments it~~  
11 ~~receives and shall make a decision on a proposed rule change at a~~  
12 ~~board meeting. A decision shall not be made until after the~~  
13 ~~comment submission deadline.~~

14 ~~(e) The board of directors shall deliver notice of a rule change~~  
15 ~~to every association member. The notice shall set out the text of the~~  
16 ~~rule change and state the date the rule change takes effect. The date~~  
17 ~~the rule change takes effect shall be not less than 15 days after~~  
18 ~~notice of the rule change is delivered.~~

19 ~~(f) A document that is required to be delivered pursuant to this~~  
20 ~~section is subject to Section 1350.7.~~

21 ~~1357.160. (a) Use of the procedure described in this section~~  
22 ~~satisfies the requirements of Section 1357.140. An association is~~  
23 ~~not required to use this procedure.~~

24 ~~(b) If the board of directors of an association determines that an~~  
25 ~~immediate rule change is necessary to address an imminent threat~~  
26 ~~to public health or safety, or an imminent risk of substantial~~  
27 ~~economic loss to the association, it may make the rule change~~  
28 ~~immediately.~~

29 ~~(c) As soon as possible after making a rule change under this~~  
30 ~~section, but not more than 15 days after making the rule change,~~  
31 ~~the board of directors shall deliver notice of the rule change to~~  
32 ~~every association member. The notice shall include the text of the~~  
33 ~~rule change and an explanation of why an immediate rule change~~  
34 ~~is required to address an imminent threat to public health or safety,~~  
35 ~~or an imminent risk of substantial economic loss to the association.~~

36 ~~(d) A rule change made under this section is effective for 120~~  
37 ~~days, unless the rule change provides for a shorter effective period.~~

38 ~~(e) A rule change made under this section may not be readopted~~  
39 ~~under this section.~~

~~(f) A document that is required to be delivered pursuant to this section is subject to Section 1350.7.~~

~~1357.170.~~

*1357.120. (a) The board of directors shall provide notice of a proposed rule change at least 10 days before making the rule change. Notice is not required under this subdivision if the board of directors determines that an immediate rule change is necessary to address an imminent threat to public health or safety or imminent risk of substantial economic loss to the association.*

*(b) A decision on a proposed rule change shall be made at a meeting of the board of directors, after consideration of any comments made by association members.*

*(c) As soon as possible after making a rule change, but not more than 15 days after making the rule change, the board of directors shall deliver notice of the rule change to every association member.*

*(d) If the board of directors determines that an immediate rule change is required to address an imminent threat to public health or safety, or an imminent risk of substantial economic loss to the association, it may make an emergency rule change; and no notice is required, as specified in subdivision (a). An emergency rule change is effective for 120 days, unless the rule change provides for a shorter effective period. A rule change made under this subdivision may not be readopted under this subdivision.*

*(e) A notice required by this section is subject to Section 1350.7.*

*1357.130. (a) Members of an association owning 5 percent or more of the separate interests may call a special meeting to reverse a rule change.*

*(b) A special meeting may be called by delivering a written request to the chair or secretary of the board of directors. The written request may not be delivered more than 30 days after the members of the association are notified of the rule change. Members are deemed to have been notified of a rule change on delivery of notice of the rule change, or on enforcement of the resulting rule, whichever is sooner. For the purposes of Section 8330 of the Corporations Code, collection of signatures to call a special meeting under this section is a purpose reasonably related to the interests of the members of the association. A member request to copy or inspect the membership list solely for that purpose may not be denied on the grounds that the purpose is not reasonably related to the member's interests as a member.*

(c) The rule change may be reversed by the affirmative vote of a majority of the votes represented and voting at a duly held meeting at which a quorum is present (which affirmative votes also constitute a majority of the required quorum) or by written ballot in conformity with Section 7513 of the Corporations Code, or if the declaration or bylaws require a greater proportion, by the affirmative vote or written ballot of the proportion required.

(d) Unless otherwise provided in the declaration or bylaws, for the purposes of this section, a member may cast one vote per separate interest owned.

(e) A meeting called under this section is governed by Chapter 5 (commencing with Section 7510) of Part 3 of Division 2 of Title 1 of, and Sections 7612 and 7613 of, the Corporations Code.

(f) A rule change reversed under this section may not be readopted for one year after the date of the meeting reversing the rule change.

(g) The board of directors shall provide notice of the results of a member vote held pursuant to this section to every association member. Delivery of notice under this subdivision is subject to Section 1350.7.

(h) This section does not apply to an emergency rule change made under ~~Section 1357.160.~~

~~1357.180: subdivision (d) of section 1357.120.~~

*1357.140. (a) Sections 1357.120 and 1357.130 only apply to an operating rule that relates to one or more of the following subjects:*

*(1) Use of the common area or of an exclusive use common area.*

*(2) Use of a separate interest, including any aesthetic or architectural standards that govern alteration of a separate interest.*

*(3) Member discipline, including any schedule of monetary penalties for violation of the governing documents and any procedure for the imposition of penalties.*

*(4) Assessment collection procedures.*

*(b) Sections 1357.120 and 1357.130 do not apply to the following actions by the board of directors of an association:*

*(1) A decision regarding maintenance of the common area.*

*(2) A decision in a specific case that is not intended to apply generally.*



1 (3) *A decision setting the amount of a regular or special*  
2 *assessment.*

3 (4) *A rule change that is required by law, if the board of*  
4 *directors has no discretion as to the substantive effect of the rule*  
5 *change.*

6 (5) *Issuance of a document that merely repeats existing law or*  
7 *the governing documents.*

8 1357.150. (a) This article applies to a rule change  
9 commenced on or after January 1, 2004.

10 (b) Nothing in this article affects the validity of a rule change  
11 commenced before January 1, 2004.

12 (c) For the purposes of this section, a rule change is commenced  
13 when the board of directors of the association takes its first official  
14 action leading to adoption of the rule change.

15 SEC. 11. A chapter heading is added to Title 6 (commencing  
16 with Section 1350) of Part 4 of Division 2 of the Civil Code,  
17 immediately preceding Section 1358, to read:

18  
19 CHAPTER 3. OWNERSHIP RIGHTS AND INTERESTS  
20

21 SEC. 12. A chapter heading is added to Title 6 (commencing  
22 with Section 1350) of Part 4 of Division 2 of the Civil Code,  
23 immediately preceding Section 1363, to read:

24  
25 CHAPTER 4. GOVERNANCE  
26

27 SEC. 13. An article heading is added to Title 6 (commencing  
28 with Section 1350) of Part 4 of Division 2 of the Civil Code,  
29 immediately preceding Section 1363, to read:

30  
31 Article 1. Association  
32

33 SEC. 14. Section 1363 of the Civil Code is amended to read:

34 1363. (a) A common interest development shall be managed  
35 by an association which may be incorporated or unincorporated.  
36 The association may be referred to as a community association.

37 (b) An association, whether incorporated or unincorporated,  
38 shall prepare a budget pursuant to Section 1365 and disclose  
39 information, if requested, in accordance with Section 1368.

(c) Unless the governing documents provide otherwise, and regardless of whether the association is incorporated or unincorporated, the association may exercise the powers granted to a nonprofit mutual benefit corporation, as enumerated in Section 7140 of the Corporations Code, except that an unincorporated association may not adopt or use a corporate seal or issue membership certificates in accordance with Section 7313 of the Corporations Code.

The association, whether incorporated or unincorporated, may exercise the powers granted to an association by Section 383 of the Code of Civil Procedure and the powers granted to the association in this title.

(d) Meetings of the membership of the association shall be conducted in accordance with a recognized system of parliamentary procedure or any parliamentary procedures the association may adopt.

(e) Notwithstanding any other provision of law, notice of meetings of the members shall specify those matters the board intends to present for action by the members, but, except as otherwise provided by law, any proper matter may be presented at the meeting for action.

(f) Members of the association shall have access to association records, including accounting books and records and membership lists, in accordance with Article 3 (commencing with Section 8330) of Chapter 13 of Part 3 of Division 2 of Title 1 of the Corporations Code. The members of the association shall have the same access to the operating rules of the association as they have to the accounting books and records of the association.

(g) If an association adopts or has adopted a policy imposing any monetary penalty, including any fee, on any association member for a violation of the governing documents or rules of the association, including any monetary penalty relating to the activities of a guest or invitee of a member, the board of directors shall adopt and distribute to each member, by personal delivery or first-class mail, a schedule of the monetary penalties that may be assessed for those violations, which shall be in accordance with authorization for member discipline contained in the governing documents. The board of directors shall not be required to distribute any additional schedules of monetary penalties unless

1 there are changes from the schedule that was adopted and  
2 distributed to the members pursuant to this subdivision.

3 (h) When the board of directors is to meet to consider or impose  
4 discipline upon a member, the board shall notify the member in  
5 writing, by either personal delivery or first-class mail, at least 10  
6 days prior to the meeting. The notification shall contain, at a  
7 minimum, the date, time, and place of the meeting, the nature of  
8 the alleged violation for which a member may be disciplined, and  
9 a statement that the member has a right to attend and may address  
10 the board at the meeting. The board of directors of the association  
11 shall meet in executive session if requested by the member being  
12 disciplined.

13 If the board imposes discipline on a member, the board shall  
14 provide the member a written notification of the disciplinary  
15 action, by either personal delivery or first-class mail, within 15  
16 days following the action. A disciplinary action shall not be  
17 effective against a member unless the board fulfills the  
18 requirements of this subdivision.

19 (i) Whenever two or more associations have consolidated any  
20 of their functions under a joint neighborhood association or similar  
21 organization, members of each participating association shall be  
22 entitled to attend all meetings of the joint association other than  
23 executive sessions, (1) shall be given reasonable opportunity for  
24 participation in those meetings and (2) shall be entitled to the same  
25 access to the joint association's records as they are to the  
26 participating association's records.

27 (j) Nothing in this section shall be construed to create, expand,  
28 or reduce the authority of the board of directors of an association  
29 to impose monetary penalties on an association member for a  
30 violation of the governing documents or rules of the association.

31 SEC. 15. An article heading is added to Title 6 (commencing  
32 with Section 1350) of Part 4 of Division 2 of the Civil Code,  
33 immediately preceding Section 1363.05, to read:

34  
35 Article 2. Common Interest Development Open Meeting Act  
36

37 SEC. 16. An article heading is added to Title 6 (commencing  
38 with Section 1350) of Part 4 of Division 2 of the Civil Code,  
39 immediately preceding Section 1363.1, to read:  
40

## Article 3. Managing Agents

SEC. 17. An article heading is added to Title 6 (commencing with Section 1350) of Part 4 of Division 2 of the Civil Code, immediately preceding Section 1363.5, to read:

## Article 4. Public Information

SEC. 18. A chapter heading is added to Title 6 (commencing with Section 1350) of Part 4 of Division 2 of the Civil Code, immediately preceding Section 1364, to read:

## CHAPTER 5. OPERATIONS

SEC. 19. An article heading is added to Title 6 (commencing with Section 1350) of Part 4 of Division 2 of the Civil Code, immediately preceding Section 1364, to read:

## Article 1. Common Areas

SEC. 20. An article heading is added to Title 6 (commencing with Section 1350) of Part 4 of Division 2 of the Civil Code, immediately preceding Section 1365, to read:

## Article 2. Fiscal Matters

SEC. 21. An article heading is added to Title 6 (commencing with Section 1350) of Part 4 of Division 2 of the Civil Code, immediately preceding Section 1365.7, to read:

## Article 3. Insurance

SEC. 22. An article heading is added to Title 6 (commencing with Section 1350) of Part 4 of Division 2 of the Civil Code, immediately preceding Section 1366, to read:

Article 4. Assessments

SEC. 23. A chapter heading is added to Title 6 (commencing with Section 1350) of Part 4 of Division 2 of the Civil Code, immediately preceding Section 1368, to read:

CHAPTER 6. TRANSFER OF OWNERSHIP INTERESTS

SEC. 24. Section 1368 of the Civil Code is amended to read:

1368. (a) The owner of a separate interest, other than an owner subject to the requirements of Section 11018.6 of the Business and Professions Code, shall, as soon as practicable before transfer of title to the separate interest or execution of a real property sales contract therefor, as defined in Section 2985, provide the following to the prospective purchaser:

(1) A copy of the governing documents of the common interest development, including any operating rules, and including a copy of the association's articles of incorporation, or, if not incorporated, a statement in writing from an authorized representative of the association that the association is not incorporated.

(2) If there is a restriction in the governing documents limiting the occupancy, residency, or use of a separate interest on the basis of age in a manner different from that provided in Section 51.3, a statement that the restriction is only enforceable to the extent permitted by Section 51.3 and a statement specifying the applicable provisions of Section 51.3.

(3) A copy of the most recent documents distributed pursuant to Section 1365.

(4) A true statement in writing obtained from an authorized representative of the association as to the amount of the association's current regular and special assessments and fees, any assessments levied upon the owner's interest in the common interest development that are unpaid on the date of the statement, and any monetary fines or penalties levied upon the owner's interest and unpaid on the date of the statement. The statement obtained from an authorized representative shall also include true information on late charges, interest, and costs of collection which, as of the date of the statement, are or may be made a lien upon the

1 owner's interest in a common interest development pursuant to  
2 Section 1367 or 1367.1.

3 (5) A copy or a summary of any notice previously sent to the  
4 owner pursuant to subdivision (h) of Section 1363 that sets forth  
5 any alleged violation of the governing documents that remains  
6 unresolved at the time of the request. The notice shall not be  
7 deemed a waiver of the association's right to enforce the governing  
8 documents against the owner or the prospective purchaser of the  
9 separate interest with respect to any violation. This paragraph shall  
10 not be construed to require an association to inspect an owner's  
11 separate interest.

12 (6) A copy of the preliminary list of defects provided to each  
13 member of the association pursuant to Section 1375, unless the  
14 association and the builder subsequently enter into a settlement  
15 agreement or otherwise resolve the matter and the association  
16 complies with Section 1375.1. Disclosure of the preliminary list  
17 of defects pursuant to this paragraph shall not waive any privilege  
18 attached to the document. The preliminary list of defects shall also  
19 include a statement that a final determination as to whether the list  
20 of defects is accurate and complete has not been made.

21 (7) A copy of the latest information provided for in Section  
22 1375.1.

23 (8) Any change in the association's current regular and special  
24 assessments and fees which have been approved by the  
25 association's board of directors, but have not become due and  
26 payable as of the date disclosure is provided pursuant to this  
27 subdivision.

28 (b) Upon written request, an association shall, within 10 days  
29 of the mailing or delivery of the request, provide the owner of a  
30 separate interest with a copy of the requested items specified in  
31 paragraphs (1) to (8), inclusive, of subdivision (a). The association  
32 may charge a fee for this service, which shall not exceed the  
33 association's reasonable cost to prepare and reproduce the  
34 requested items.

35 (c) An association shall not impose or collect any assessment,  
36 penalty, or fee in connection with a transfer of title or any other  
37 interest except the association's actual costs to change its records  
38 and that authorized by subdivision (b).

39 (d) Any person or entity who willfully violates this section  
40 shall be liable to the purchaser of a separate interest which is

1 subject to this section for actual damages occasioned thereby and,  
2 in addition, shall pay a civil penalty in an amount not to exceed five  
3 hundred dollars (\$500). In an action to enforce this liability, the  
4 prevailing party shall be awarded reasonable attorneys' fees.

5 (e) Nothing in this section affects the validity of title to real  
6 property transferred in violation of this section.

7 (f) In addition to the requirements of this section, an owner  
8 transferring title to a separate interest shall comply with applicable  
9 requirements of Sections 1133 and 1134.

10 SEC. 25. A chapter heading is added to Title 6 (commencing  
11 with Section 1350) of Part 4 of Division 2 of the Civil Code,  
12 immediately preceding Section 1368.4, to read:

13  
14 CHAPTER 7. CIVIL ACTIONS AND LIENS  
15

16 SEC. 26. A chapter heading is added to Title 6 (commencing  
17 with Section 1350) of Part 4 of Division 2 of the Civil Code,  
18 immediately preceding Section 1370, to read:

19  
20 CHAPTER 8. CONSTRUCTION OF INSTRUMENTS AND ZONING  
21

22 SEC. 27. A chapter heading is added to Title 6 (commencing  
23 with Section 1350) of Part 4 of Division 2 of the Civil Code,  
24 immediately preceding Section 1375, to read:

25  
26 CHAPTER 9. CONSTRUCTION DEFECT LITIGATION  
27

28 SEC. 28. A chapter heading is added to Title 6 (commencing  
29 with Section 1350) of Part 4 of Division 2 of the Civil Code,  
30 immediately preceding Section 1376, to read:

31  
32 CHAPTER 10. IMPROVEMENTS  
33

34 SEC. 29. Section 1373 of the Civil Code is amended to read:  
35 1373.

36 (a) The following provisions do not apply to a common interest  
37 development that is limited to industrial or commercial uses by  
38 zoning or by its declaration:

39 (1) Section 1356.

(2) Article 4 (commencing with Section 1357.100) of Chapter 2 of Title 6 of Part 4 of Division 2 of the Civil Code.

(3) Subdivision (b) of Section 1363.

(4) Section 1365.

(5) Section 1365.5.

(6) Subdivision (b) of Section 1366.

(7) Section 1366.1.

(8) Section 1368.

~~(9) Article 2 (commencing with Section 1378.010) of Chapter 10 of Title 6 of Part 4 of Division 2 of the Civil Code.~~

~~(10) Article 3 (commencing with Section 1378.050) of Chapter 10 of Title 6 of Part 4 of Division 2 of the Civil Code.~~

(b) The Legislature finds that the provisions listed in subdivision (a) are appropriate to protect purchasers in residential common interest developments, however, the provisions may not be necessary to protect purchasers in commercial or industrial developments since the application of those provisions could result in unnecessary burdens and costs for these types of developments.

~~SEC. 30.—An article heading is added immediately preceding Section 1376 of the Civil Code, to read:~~

~~Article 1.—Video or Television Antenna~~

~~SEC. 31.—Article 2 (commencing with Section 1378.010) is added to Title 6 of Part 4 of Division 2 of the Civil Code, to read:~~

~~Article 2.—Review of Proposed Alteration of Separate Interest~~

~~1378.010. (a) If an association's governing documents require that an owner of a separate interest obtain association approval before altering a separate interest, exclusive use common area, or part of the common area, this article governs the association's decisionmaking process.~~

~~(b) An association may, by operating rule, preapprove specific types of alterations. A preapproved alteration is not subject to review under this article.~~

~~(c) A repair is not subject to review under this article if the board of directors of the association determines that an immediate repair is necessary to protect public health or safety or to prevent~~



1 further property damage, and the repair would not significantly  
2 alter the original design of the property.

3 ~~1378.020. (a) A decision to approve or disapprove a~~  
4 ~~proposed alteration of a member's separate interest, an exclusive~~  
5 ~~use common area, or part of the common area, shall be made in~~  
6 ~~good faith and in a fair and reasonable manner.~~

7 ~~(b) The procedure provided in Article 3 (commencing with~~  
8 ~~Section 1378.050) is fair and reasonable. Other procedures may~~  
9 ~~also be fair and reasonable under the circumstances.~~

10 ~~1378.030. A writ proceeding for review of a decision to~~  
11 ~~approve or disapprove a proposed alteration of a member's~~  
12 ~~separate interest, an exclusive use common area, or part of the~~  
13 ~~common area, is subject to Section 1354.~~

14 ~~SEC. 32. Article 3 (commencing with Section 1378.050) is~~  
15 ~~added to Title 6 of Part 4 of Division 2 of the Civil Code, to read:~~

16  
17 Article 3.— Optional Procedure  
18

19 ~~1378.050. Notwithstanding any contrary provision of an~~  
20 ~~association's governing documents, this article provides a fair and~~  
21 ~~reasonable procedure that an association may use in reviewing a~~  
22 ~~member's proposed alteration of a separate interest, an exclusive~~  
23 ~~use common area, or part of the common area. Use of the~~  
24 ~~procedure is not mandatory.~~

25 ~~1378.060. (a) The definitions in this section govern the~~  
26 ~~construction of this article.~~

27 ~~(b) "Participating member" means an association member~~  
28 ~~who, before the reviewing body makes its decision on the proposed~~  
29 ~~alteration, submits to the reviewing body a comment opposed to~~  
30 ~~a proposed alteration of a separate interest, exclusive use common~~  
31 ~~area, or part of the common area.~~

32 ~~(c) "Reviewing body" means the person or group authorized~~  
33 ~~by an association's governing documents to approve or disapprove~~  
34 ~~the alteration of a separate interest, exclusive use common area, or~~  
35 ~~part of the common area.~~

36 ~~1378.070. (a) An association member who proposes to alter~~  
37 ~~a separate interest shall submit a written application to the~~  
38 ~~reviewing body. The application shall be in the form specified by~~  
39 ~~the association. An incomplete application may be returned to the~~  
40 ~~applicant with an explanation of why the application is~~

1 ~~incomplete. No further action is required on an application that is~~  
2 ~~returned as incomplete.~~

3 ~~(b) Within 30 days after receipt of the application, the~~  
4 ~~reviewing body shall deliver notice of the application to the~~  
5 ~~following persons:~~

6 ~~(1) If the proposed alteration would only alter separate interest~~  
7 ~~or exclusive use common area property, to members owning~~  
8 ~~separate interests within 300 feet of, or located within the same~~  
9 ~~building as, the property that is the subject of the proposed~~  
10 ~~alteration, and to members having a right to use any exclusive use~~  
11 ~~common area property that is the subject of the proposed~~  
12 ~~alteration.~~

13 ~~(2) If the proposed alteration would alter common area~~  
14 ~~property other than exclusive use common area property, to all~~  
15 ~~members.~~

16 ~~(c) The notice shall include the address or location of the~~  
17 ~~separate interest, exclusive use common area, or part of the~~  
18 ~~common area, that is the subject of the application, a description~~  
19 ~~of the proposed alteration adequate to inform other members of its~~  
20 ~~nature, and the date after which the reviewing body may make its~~  
21 ~~decision.~~

22 ~~(d) Not less than 15 days nor more than 30 days after delivery~~  
23 ~~of the notice of the application, the reviewing body shall deliver~~  
24 ~~a written decision to the applicant and to any participating~~  
25 ~~member. If the reviewing body does not deliver a written decision~~  
26 ~~to the applicant within 30 days after delivery of the notice of~~  
27 ~~application, the application is deemed disapproved on the 30th~~  
28 ~~day.~~

29 ~~(e) A written decision approving a proposed alteration of a~~  
30 ~~separate interest, exclusive use common area, or part of the~~  
31 ~~common area, shall include an explanation of the reason for the~~  
32 ~~decision, a description of the procedure for appealing the decision,~~  
33 ~~and a statement indicating whether the reviewing body received~~  
34 ~~any comments opposing the alteration.~~

35 ~~1378.080. (a) Except as provided in subdivision (b), an~~  
36 ~~applicant may not commence work on an approved alteration of~~  
37 ~~a separate interest, exclusive use common area, or part of the~~  
38 ~~common area, until either the period for appeal passes without an~~  
39 ~~appeal being filed or the approval is upheld on appeal.~~

1 ~~(b) If a written decision approving alteration of a separate~~  
2 ~~interest, exclusive use common area, or part of the common area,~~  
3 ~~states that no member comments opposing the alteration were~~  
4 ~~received by the reviewing body before it made its decision, the~~  
5 ~~applicant may commence work on the approved alteration~~  
6 ~~immediately.~~

7 ~~1378.090. (a) An applicant or participating member may~~  
8 ~~appeal the approval or disapproval of a proposed alteration of a~~  
9 ~~separate interest, exclusive use common area, or part of the~~  
10 ~~common area, to the board of directors of the association. The~~  
11 ~~appeal shall be in writing and shall be delivered to the board of~~  
12 ~~directors within 15 days after the reviewing body's decision is~~  
13 ~~delivered or the proposed alteration is deemed disapproved.~~

14 ~~(b) At least 15 days before hearing the appeal, the board of~~  
15 ~~directors shall deliver notice of the appeal to the following~~  
16 ~~persons:~~

17 ~~(1) If the proposed alteration would only alter separate interest~~  
18 ~~or exclusive use common area property, to members owning~~  
19 ~~separate interests within 300 feet of, or located within the same~~  
20 ~~building as, the property that is the subject of the proposed~~  
21 ~~alteration, and to members having a right to use any exclusive use~~  
22 ~~common area property that is the subject of the proposed~~  
23 ~~alteration.~~

24 ~~(2) If the proposed alteration would alter common area~~  
25 ~~property other than exclusive use common area property, to all~~  
26 ~~members.~~

27 ~~(c) The notice of appeal shall state the time and place where the~~  
28 ~~appeal will be heard.~~

29 ~~(d) Within 45 days after receipt of a timely appeal, the board of~~  
30 ~~directors shall meet and review de novo the proposed alteration~~  
31 ~~that is the subject of the appeal. Any association member may~~  
32 ~~testify at the appeal and may submit written materials in support~~  
33 ~~of or in opposition to the proposed alteration.~~

34 ~~(e) Within 15 days after hearing the appeal, the board of~~  
35 ~~directors shall deliver its decision to the applicant and, if the appeal~~  
36 ~~is by a person other than the applicant, to that person. The decision~~  
37 ~~shall be in writing and shall include a statement explaining the~~  
38 ~~basis for the decision, including reference to facts, standards, or~~  
39 ~~provisions of the governing documents that support the decision.~~

1     ~~1378.100.—(a) A decision of the reviewing body made under~~  
2     ~~Section 1378.070 is not subject to judicial review.~~  
3     ~~(b) Any member may seek judicial review of a decision of the~~  
4     ~~board of directors of the association made under Section 1378.090.~~  
5     ~~Judicial review may be by writ of administrative mandamus,~~  
6     ~~pursuant to Section 1094.5 of the Code of Civil Procedure.~~  
7     ~~1378.110.—In making a decision to approve or disapprove a~~  
8     ~~proposed alteration of a member's separate interest, an exclusive~~  
9     ~~use common area, or part of the common area, the reviewing body~~  
10    ~~or board of directors may consider any relevant information. The~~  
11    ~~reviewing body or board of directors is not required to consider~~  
12    ~~information other than that provided to the reviewing body or~~  
13    ~~board of directors.~~  
14    ~~1378.120.—A document that is required to be delivered~~  
15    ~~pursuant to this article is subject to Section 1350.7.~~

